

Message Text

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ACTION EB-07

INFO OCT-01 IO-10 ISO-00 EA-06 SS-15 SP-02 L-03 INR-07

EUR-12 /063 W

----- 002351

P 081703Z AUG 75

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 5150

INFO USMISSION EC BRUSSELS PRIORITY

C O N F I D E N T I A L GENEVA 6226

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E.O. 11652: GDS

TAGS: GATT ETRD HK

SUBJ: EEC/HONG KONK TEXTILE BILATERAL AGREEMENT

A) STATE 185670; B) PHELAN/SMITH TELECONS AUG 5&6;
C) PHELAN/HOLMES (USEC) TELECON AUG 8 AND; D) GENEVA 6090

1. AS INDICATED REFS B) AND D), DUE CIRCUMSTANCE UNDER WHICH TEXT EC/HONG KONG BILATERAL WAS OBTAINED AND DUE FACT BOTH EC AND HK TSB REPS VACTIONING OUT OF COUNTRY UNTIL AUG 24, IT UNLIKELY THAT US REP WILL BE IN POSITION PROVIDE MEANINGFUL ANSWERS TO MOST QUESTIONS RAISED REF A) UNTIL RETURN HK REP (DORWARD) GENEVA.

2. US REP HAS REQUESTED (REF C) USEC BRUSSELS OPENLY ASK EC (SUTTON) NEGOTIATIONS FOR COPY OF AGREEMENT. IF EC RESPONDS AFFIRMATIVELY, STRICTURE OUR PURSUING EARLIER WITH EC QUESTIONS RAISED REF A) WILL BE REMOVED. IN ANY EVENT, US REP WILL HAVE FULL DISCUSSION OF POINTS WITH DORWARD IMMEDIATELY UPON HIS RETURN GENEVA. SINCE EC/TSB ACTING REP KLARIC IS VACATIONING BRUSSELS AND WILL UNDOUBTEDLY DISCUSS AGREEMENT WITH HIS PRINCIPALS WHILE THERE, HE SHOULD ALSO BE ABLE (AND, HOPEFULLY, WILLING) HELP CLARIFY SOME POINTS FOR US REP UPON HIS RETURN GENEVA.

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3. FOLLOWING ARE US REP'S INITIAL COMMENTS (KEYED TO PARA NUMBERS REF A):

A) PARA 2. DORWARD AND MILLS BOTH TOLD US REP WHILE NEGOTIATIONS IN PROGRESS THAT EC'S "SELECTIVE" COVERAGE WOULD AMOUNT TO OVER 90 0/0 OF TRADE;

B) PARA 3. ASSUME THAT, AS FAR AS COVERED CATEGORIES ARE CONCERNED, THIS IS SAFEGUARD LANGUAGE PERMITTING IMPOSITION EMBARGO IN EVENT OF BREAKDOWN IN HKG EA AND EXPORT CONTROL SYSTEMS WITH PARA 10 OF BILATERAL ART 4 AS BALANCING SAFEGUARD FOR HK. GIVEN AURA OF SANCTITY WITH WHICH HKG SURROUND ITS EA AND EXPORT CONTROL SYSTEM, THIS MUST HAVE BEEN PAINFUL CONCESSION BY HK NEGOTIATORS.

C. PARA 4. US REP AGREES ASSUMPTIONS REFTEL. THIS ISSUE WILL ARISE IN NEXT TSB SESSION IN CONNECTION TSB CONSIDERATION OF EC (FRANCE-KOREAN) ART 3 BILATERAL AGREEMENT ON RESTRAINT ON "PLASTIC COATED GLOVES." PARADOXICALLY, HK REP DORWARD INDICATED, IN COURSE PRELIMINARY TSB CONSIDERATION PLASTIC COATED GLOVES AGREEMENT, HIS FIRM INTENT TO QUESTION AGREEMENT ON GROUNDS PLASTIC COATED GLOVES PROBABLY OUTSIDE COVERAGE OF ARRANGEMENT. IN VIEW PECULIARITIES U.S. APPROACH TO COVERAGE OF COATED FABRIC ITEMS IN OUR BILATERAL AGREEMENTS BELIEVE U.S. REP SHOULD NOT TAKE POSITION ON THIS ISSUE UNLESS AND UNTIL GLOVES ARE EXAMINED. DORWARD DID SAY HE INTENDED ASK FOR EXAMINATION BUT MAY NOT DO SO NOW. DUE INABILITY CONTROL DIRECTION TSB DISCUSSION OF AN ISSUE, ONCE FORMALLY JOINED, U.S. REP HAD HOPED KEEP TSB DEBATE ON "COVERAGE" (ART 12) ISSUES CONFINED TO SPECIFIC CASE-BY-CASE-ITEMS, A VIEW SHARED, FOR OBVIOUS REASONS, BY JAPANESE REP. HOWEVER, PARA 14 EC-HK BILATERAL WILL UNDOUBTEDLY PROVOKE TSB IN-DEPTH, OPEN-ENDED DEBATE THIS QUESTION.

K) PARA 5. BELIEVE YOUR INTERPRETATION FLEXIBILITY LIMITATION IS CORRECT. U.S. REP WILL DISCUSS WITH DORWARD APPARENT INCONSISTENCY CARRY-OVER PLUS CARRY-FORWARD 8 0/0 LIMITATION WITH PROVISIONS MFA ANNEX B.

E) PARA 6. THE CONSULTATION PROVISION THIS BILATERAL WAS INVOKED IMMEDIATELY (ACTUALLY, CONCURRENTLY WITH THE NEGOTIATION OF THE AGREEMENT) AND RESULTED CONFIDENTIAL

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IN THE LEVELS (FOR CALENDAR 1975) SHOWN IN ANNEX II. IT WAS RECOGNIZED THAT PROBABILITY EXISTED THAT HONG KONG EA'S ALREADY ISSUED IN 1975 MIGHT LEAD TO SHIPMENTS IN EXCESS OF CALENDAR 1975 ANNEX II LIMITS WHICH ARE NOT RPT NOT CONSULTATION LEVELS BUT SPECIFIC LIMITS AGREED UNDER THE CONSULTATION PROVISIONS OF THE BILATERAL. F) PARA 7. THIS WOULD APPEAR BE RECOGNITION OF POSSIBILITY COMMERCIAL DIFFICULTIES ARISING FROM APPLI-

CATION OF "REGIONAL" ANNEX II LIMITS WHICH PROBABLY ARE AT VARIANCE WITH HK SHIPPING PATTERNS TO THE MEMBER STATES CONCERNED.

G) PARA 8. HAVE ASKED SECRETARIAT CHECK RECORDS OF DECEMBER 1973 NEGOTIATIONS FOR EC STATEMENT ON IRELAND EXCEPTION. THIS NOW IN PROGRESS. CAN DEPT SUPPLY AND REFERENCE TO TIME AND PLACE OF STATEMENT?

H) PARA 9. ACCORDING DORWARD'S UNDERSTANDING, ALL LIMITS STATED IN AGREEMENT ARE FOR CALENDAR 1975. DUE LACK DATA ON 1974 TRADE, CANNOT AT THIS POINT COMMENT ON DEGREE OF OR LACK OF LIBERALIZATION.

I) PARAS 10, 11, AND 12. HERE AGAIN, IN VIEW OF FRONT-END LOADING, WE WILL NEED 1974 TRADE DATA BEFORE MAKING VALID JUDGMENT.

J) PARA 13. US REP SHARES DEPT'S VIEWS AND CONCERNS. WOULD SUGGEST, HOWEVER, THAT WE SEEK AND OBTAIN FULL CLARIFICATION ON QUESTIONS RAISED REF A) BEFORE CONSIDERING STRATEGY AND TACTICS TO FOLLOW IN TSB. OBVIOUSLY, EC, IN NEGOTIATING WITH HK, WOULD, FOR PRECEDENTIAL REASONS, HAVE EVERY INTEREST IN OBTAINING BEST POSSIBLE TERMS - TERMS WHICH WOULD APPEAR IN A PUBLISHED TEXT, AND PROVIDE USEFUL LEVERAGE IN NEGOTIATIONS WITH JAPAN, KOREA, SINGAPORE, MALAYSIA, ETC. NOTING PARA 4 OF ART. 12 OF THE BILATERAL, NOTING THE APPARENT SATISFACTION OF HK WITH THE AGREEMENT AND NOTING THE ABSENCE OF ANY "PROTOCOLS" TO COPY OF TEXT WE HAVE, LEADS TO SUSPICION OF SECRET SIDE LETTERS AND/OR SECRET PROTOCOLS. BELIEVE THAT PUBLISHED TERMS OF AGREEMENT WILL EXPOSE HK REP DORWARD TO SUCH EMBARRASSING QUESTIONS IN TSB (HE HAS BEEN A "STRICT CONSTRUCTIONIST" OF MFA THROUGHOUT) THAT HE MAY ULTIMATELY REVEAL (PRIVATELY) WHETHER SUCH SIDE LETTER DOES EXIST. U.S. CONFIDENTIAL

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REP WILL WORK ON THIS ANGLE WHEN DORWARD RETURNS TO GENEVA.ABRAMS

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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXTILES, AGREEMENTS, TRADE CONCESSIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 08 AUG 1975
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975GENEVA06226
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750274-0947
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750871/aaaackdx.tel
Line Count: 156
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: STADIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 18 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <18 APR 2003 by CunninFX>; APPROVED <07 NOV 2003 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EEC/HONG KONG TEXTILE BILATERAL AGREEMENT A) STATE 185670; B) PHELAN/SMITH TELECONS AUG 5&6;
TAGS: ETRD, HK, GATT, EEC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006